



MEMORANDUM

Community and Economic Development Department Planning Division

To: City of Beaverton Planning Commission
From: Luke Pelz, Associate Transportation Planner (503) 526-2466
Date: January 23, 2013
Subject: TA2012-0007 Use Restriction for Vehicle Sales or Lease in C-WS Zone

This text amendment would add a Use Restriction to Chapter 20, Section 20.20.25 of the Code. In the City's C-WS zone (Washington Square Regional Center – Commercial District) the use category *Vehicle Sales or Lease* is prohibited. The proposal would allow vehicle sales or lease under certain circumstances. This is a City-initiated text proposal. However, in this case, the use restriction text (see below) is proposed by a private party (please see attached documents in Exhibit 2).

This memo provides the proposed text amendment, observations that the Planning Commission may wish to consider, and an outline of the Planning Commission's options.

Proposed Text Amendment

In the Category and Specific Uses chart of Beaverton Development Code Section 20.20.20, within the C-WS zone the category/use 18.D (Vehicles – Sales or Lease) has a notation of "N", which means the use is prohibited. The text amendment would add a superscript "67" to the "N" notation, and add a new Use Restriction "67" in Development Code Section 20.20.25 that states:

"Uses which have received discretionary land use approval prior to January 1, 2012 and are enacted in accordance with such approval and Section 50.90 prior to January 1, 2014 may continue and may be altered or expanded on that site, subject to any applicable Design Review. Any other provision of the Development Code notwithstanding, the right to continue, alter or expand a use under this provision may be exercised only by the entity that obtained the original discretionary land use approval or by its corporate parent, subsidiary, affiliate or successor."

Code Amendment Criteria

The proposal applies to Code text only, and does not change the zoning map. Because this is a City-initiated proposal, fees are not required. The private party which has submitted testimony in Exhibit 2 includes proposed findings for the text amendment for the Commission's consideration.

Staff Observations

Staff has reviewed the proposed text amendment and offers a few observations in anticipation of questions that the Planning Commission may have in regard to the proposal. The observations provided here are not intended as analysis or findings.

1. Question: *Does the proposed Use Restriction run with the land, or with the property title?*

Observation: The last part of the proposed Use Restriction text implies a "chain of title" where the benefit and responsibility of the Use Restriction applies only to a corporation that obtained the original land use approval or a successor (which means anyone). Assuming the use exists in the future, staff questions whether applications for use expansion must demonstrate the succession of title.

2. Question: *Does the proposed Use Restriction override the provisions contained within Chapter 30, Non-Conforming Uses?*

Observation: Assuming the use (auto sales and lease) is constructed to the property where it has been approved (prior to January 1, 2012), would any provision in Chapter 30 be applicable (e.g., allowing maintenance of the use but prohibiting the ability to enlarge, reconstruct or structurally alter)? Because the second sentence of the proposed text allows the right to *continue, alter or expand the use*, the text implies that the Use Restriction overrides the provisions of Chapter 30, Non-Conforming Uses.

3. Question: *If provisions in Chapter 30 do not apply, as the Use Restriction overrides, does the use restriction grant privilege to only one property in the C-WS zone?*

Observation: Staff is aware of only one property where a building / site improvements were approved through past land use, primarily intended for auto sales and lease use. Most Use Restrictions apply equitably to all properties with the same zone unless there are circumstances that warrant special consideration (For Example: where commercial property is located in close proximity to a residential property with existing residential use for consideration of extended hours of operation under Conditional Use). The proposed text does not require the use to have existed in the past or to exist in the present.

4. Question: *Does the proposed Use Restriction extend the life of a limited land use decision?*

Observation: Section 50.90 of the Development Code specifies time periods for commencing development activity after the decision is issued. Land use approval can expire after the time period unless an application for extension is filed or development has commenced as described in 50.90.3.B.2. The proposed use restriction text implies unlimited extension of an expired decision, thereby overriding Section 50.90 of the Development Code.

Public Comment

Correspondence to the City is shown in Exhibit 2.

Staff Recommendation & Planning Commission Options

Staff makes no recommendation for the proposal. The Planning Commission should consider the text amendment criteria and other pertinent factors when considering changes to local land use regulations. The Text Amendment approval criteria are as follows:

1. The proposal satisfies the threshold requirements for a Text Amendment application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The proposed text amendment is consistent with the provisions of the Metro Urban Growth Management Functional Plan.
4. The proposed text amendment is consistent with the City's Comprehensive Plan.
5. The proposed text amendment is consistent with other provisions within the City's Development Code.
6. The proposed amendment is consistent with all applicable City ordinance requirements and regulations.
7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

The Planning Commission has the following options:

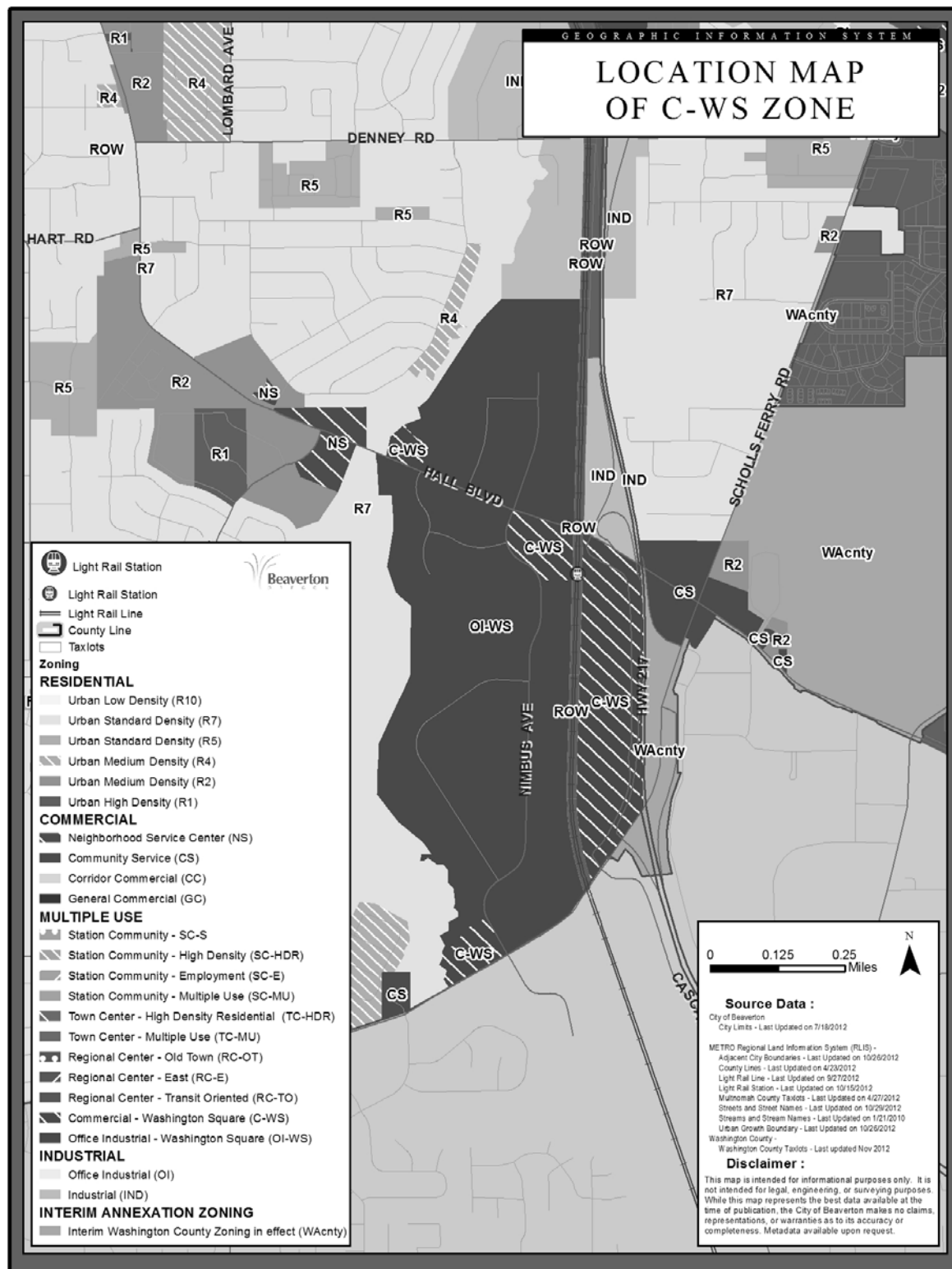
1. Recommend approval, as-is or with changes, to the City Council.
2. Recommend denial to the City Council.
3. Continue the hearing to a date certain.
4. Make no recommendation at this time and table the issue indefinitely (please note: Type 4 actions are not subject to the 120-day rule).

Exhibits

1. Map of the C-WS Zone
2. Proposed Text Amendment and Statement of Support – Private Party Statement

Exhibit 1

File No: TA2012-0007



Path: S:\TA2012-0007\cwszonemap.mxd

Exhibit 2

Proposed Text Amendment

In the chart in Beaverton Development Code Section 20.20.20 (Land Uses), Category/Specific Use 18.D (Vehicles – Sales or Lease) for the C-WS zone currently carries the notation “N,” meaning the use is prohibited. The text amendment would add a superscript “67” and a new Use Restriction, #67, in Section 20.20.25:

“Uses which have received discretionary land use approval prior to January 1, 2012 and are enacted in accordance with such approval and Section 50.90 prior to January 1, 2014 may continue and may be altered or expanded on that site, subject to any applicable Design Review. Any other provision of the Development Code notwithstanding, the right to continue, alter or expand a use under this provision may be exercised only by the entity that obtained the original discretionary land use approval or by its corporate parent, subsidiary, affiliate or successor.”

Statement in Support of Text Amendment

1. Introduction

The proposed text amendment would allow vehicle sales in the C-WS zone (where vehicle sales uses are otherwise prohibited) only under very limited circumstances applicable to one site. The site, at 9405 Cascade Avenue, received design review approval for a retail auto sales facility in 2009; the site also received conditional use approval for a private use mechanical car wash facility associated with the dealership. The text amendment does not create an opportunity for additional auto sales facilities in the C-WS zone or for expansion of the use beyond the approved site, nor would it allow for another entity to redevelop the site as a vehicle sales facility in the future.

2. Background

The development site affected by this text amendment is located at 9405 Cascade Avenue. The site, approximately 5.4 acres, is currently in use as a Malibu Grand Prix. Properties along Cascade Avenue are bounded by Highway 217 to the east and railroad right-of-way to the west. There is no east-west street grid between Hall Boulevard on the north and Scholls Ferry Road on the south.

CarMax applied for and received design review and conditional use approvals for the site in 2009. The retail sales use was fully allowed, requiring only design review. The conditional use related only to the mechanical car wash, which will not be available for public use. Design review for the facility was approved through File No. DR2009-0076, with an expiration date of December 11, 2011. Conditional Use review the car wash was approved through File No. CU2009-0009, with an expiration date of November 6, 2011. Those approvals were extended by two years in March 2011, through File Nos. EXT2011-0004 and EXT2011-0005. At the time the original approvals and the extensions were granted, the site was zoned GC. Retail auto sales are a permitted use in the GC zone.

At the time the original CarMax applications were approved, the Washington Square Regional Center Plan ("the Plan") was in existence but not fully implemented by the City. However, CarMax was strongly encouraged by staff to address the Plan's concepts and policies in its use and design of the site. CarMax proceeded in good faith, and the approved design reflects Plan design elements such as decked parking and street-friendly building and landscape elements. City staff recommended approval based on CarMax's integration of the Plan's concepts, resolving issues of the Plan's legal effect as applied to CarMax's proposal, as well as acceptance of CarMax's use as consistent with the Plan. The approved design went well beyond the technical application of the then-existing zoning requirements. The approval authorities concurred with the staff recommendations.

In 2010, after CarMax received its design review and conditional use approvals, the City amended the Comprehensive Plan through Ordinance 4541 to establish the corresponding zones for the "Regional Center"; the City also substantially amended Development Code Chapter 20 to, among other things, establish standards for the two

Washington Square Regional Center zones: Office Industrial – Washington Square and Commercial – Washington Square.

In August 2012, the City Council adopted Ordinance No. 4593, approving ZMA2012-0006 (Washington Square Zoning Implementation Zoning Map Amendment). Ordinance No. 4593 rezones the CarMax site from GC to C-WS, Washington Square Regional Center – Commercial District. Pursuant to Section 20.20.20, Vehicle Sales or Lease is a prohibited use in the C-WS zone. In other words, the CarMax facility, even if constructed in accordance with the approvals granted (and extended) by the City, would be a nonconforming use from the outset.

3. Proposed Text Amendment

In the chart in Beaverton Development Code Section 20.20.20 (Land Uses), Category/Specific Use 18.D (Vehicles – Sales or Lease) for the C-WS zone currently carries the notation “N,” meaning the use is prohibited. The text amendment would add a superscript “67” and a new Use Restriction, #67, in Section 20.20.25:

“Uses which have received discretionary land use approval prior to January 1, 2012 and are enacted in accordance with such approval and Section 50.90 prior to January 1, 2014 may continue and may be altered or expanded on that site, subject to any applicable Design Review. Any other provision of the Development Code notwithstanding, the right to continue, alter or expand a use under this provision may be exercised only by the entity that obtained the original discretionary land use approval or by its corporate parent, subsidiary, affiliate or successor.”

4. Justification

A. The text amendment is narrowly tailored to address the circumstances of CarMax

The text amendment requires both that the auto sales or leasing use must have obtained discretionary land use approval prior to January 1, 2012, and must be enacted prior in accordance with its land use approvals and Section 50.90 prior January 1, 2014. This provision serves three purposes. First, it limits the applicability of the text amendment to the one development site in the C-WS zone that has received discretionary land use approval for auto sales. In other words, the text amendment does not create a pathway for approval of additional similar facilities in the C-WS zone or for expansion of the use beyond the approved site.

Second, the text amendment requires that any discretionary land use approvals for the use be “enacted” in accordance with the land use approvals and Section 50.90 prior to January 1, 2014.¹ As applicable to the CarMax development, this means that CarMax must

¹ Section 50.90(1) provides: “Except as otherwise specifically provided in a specific decision or in this Code, a final decision made pursuant to this Chapter shall expire automatically on the following schedule unless the approval is enacted either through construction or establishment of use within the specified time period.” Pursuant to Section 50.90(3), a development requiring construction is commenced when “a construction permit has been issued and

develop the facility consistent with its current land use approvals and complete "substantial construction (as defined in the Development Code) by the deadlines in those approvals. CarMax could not seek further extensions of the development deadlines.

Third, the text amendment allows only the recipient of the original land use approval, or a related corporation, to continue, alter or expand the use. In other words, if CarMax ceases to use the site, another vehicle sales business cannot subsequently lease or purchase the site and continue the use.

The text amendment also clarifies that any alteration or expansion on the site is subject to review under any applicable Design Review requirements in the Development Code. The development of the CarMax facility was approved through Design Review Three, and future changes would be subject to Design Review to the extent applicable under Section 40.20.15 of the Development Code.

B. The text amendment is based on the precedent of Canyon Road auto dealers

When the City rezoned the properties occupied by numerous Canyon Road auto dealers to apply "Regional Center" zoning designations, the City recognized the need to maintain the viability of the businesses established in reliance on the existing Development Code. Thus, in the RC-TO, RC-OT and RC-E zones, vehicles sales or leasing was made a conditional use, subject to the following use restriction in Section 20.20.25(45):

"All uses established after December 9, 1999 shall be conducted wholly within an enclosed structure. Accessory open air sales or display related to Permitted uses in existence on a site at the time this Code was adopted may be expanded on that site."

This provision regarding vehicle sales and leasing in the Regional Center zones applied the new requirement for "wholly enclosed" sales prospectively, allowing businesses that had relied on the prior zoning to continue without being treated as nonconforming uses. The City's general policy, as expressed in Section 30.05.1 of the Development Code, is "not to encourage" the continuation of nonconforming uses:

It is the intent of this ordinance to permit these nonconformities to continue until they are removed, but not to encourage their perpetuation. It is further the intent of this ordinance that nonconformities shall not be enlarged, expanded or extended, nor be used as grounds for adding other structures or uses not permitted elsewhere in the same district except as specifically provided elsewhere in this ordinance.

That policy is reinforced by Section 30.35, which provides:

substantial construction pursuant thereto has taken place." "Substantial construction" is defined in Chapter 90 of the Development Code. Chapter 90 also equates "vesting" with "substantial construction."

No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except to accommodate a changing of the use of the structure to a use permitted in the district in which it is located.

Furthermore, under Section 30.35.1.E, a nonconforming use must be discontinued in the event of damage (such as from a fire) exceeding 50 percent of the replacement cost of the structure:

Where nonconforming use status applies to a structure and premises, removal or destruction of the structure shall eliminate the nonconforming use status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50% of the replacement cost at time of destruction.

In the case of the Canyon Road dealers, the City determined that it was preferable to allow existing dealers to continue in operation without becoming "nonconforming." That policy decision allows those auto dealers to adapt their buildings and operations to a changing market, to modernize, to return to business after a major casualty event, and to remain vital contributors to the City's business and employment landscape. The proposed text amendment would ensure that CarMax could develop and operate similarly, with the expectation that the business will thrive and continue rather than the expectation that the business will go away.

5. Approval Criteria

The approval criteria for an amendment to the Development Code are set forth in Section 40.85.15 and are addressed below.

1. The proposal satisfies the threshold requirements for a Text Amendment application.

Response: Under Section 40.85.15.1.A, an application for Text Amendment is required for any change to the Development Code, other than a change to the zoning map. This application is for an amendment to the text of the Development Code and does not involve a change in the zoning map. Therefore, the threshold requirement is met.

2. All City application fees related to the application under consideration by the decision making authority have been submitted.

Response: The application is initiated by the City; therefore, no application fee is required.

3. The proposed text amendment is consistent with the provisions of the Metro Urban Growth Management Functional Plan.

Response: The Metro Urban Growth Management Functional Plan (UGMFP) is set forth in Section 3.07 of the Metro Code. The provisions of the UGMFP are addressed below.

Title 1: Housing Capacity. Section 3.07.110 of the Metro Urban Growth Management Functional Plan (UGMFP) requires the City to maintain or increase its housing capacity, with exceptions as set forth in Section 3.07.120. The proposed text amendment does not affect Beaverton's housing capacity because it does not change the residential uses or densities permitted in the C-WS zone.

Title 2: Regional Parking Policy. Title 2 Regional Parking Policy was repealed by Metro Ordinance No. 10-1241B.

Title 3: Water Quality and Flood Management. In concert with other local governments in Washington County, the City partnered with Clean Water Services to enact legislation acknowledged to comply with Title 3. The proposed text amendment does not alter any provisions related to compliance with Title 3.

Title 4: Industrial and Other Employment Areas. The proposed text amendment relates to a single parcel, rezoned from General Commercial (GC) to Commercial – Washington Square (C-WS) by Ordinance No. 4593 (currently on appeal to LUBA). This site is not in an area identified as a Regionally Significant Industrial Area or mapped as an Industrial Area or Employment Area on the Title 4 map. Therefore, Sections 3.07.420 through .450 of this Title are not applicable to the proposed text amendment.

Title 5: Neighbor Cities and Rural Reserves. Title 5 was repealed by Metro Ordinance No. 10-1238A.

Title 6: Centers, Corridors, Station Communities and Main Streets. As noted above, this area is part of the Washington Square Regional Center. The proposed text amendment would apply to a single site, which has already received design review approval incorporating regional center concepts, in particular pedestrian improvements. The text amendment is consistent with the policy choice made for the existing Canyon Road auto dealers, allowing the continuation – without “nonconforming” status – of businesses established under prior zoning, while ensuring that new proposals will be subject to all provisions of the new regional center zoning.

Title 7: Housing Choices. The proposed text amendment will not alter the City's compliance with the voluntary production goals for affordable housing supply.

Title 8: Compliance Procedures. The City will be responsible for providing notice of this proposed text amendment to the Chief Operating Officer of Metro at least 45 days prior to the first evidentiary hearing, as required by Metro Code Section 3.07.820.

Title 9: Performance Measures. Title 9 was repealed by Metro Ordinance No. 10-1244B.

Title 10: Functional Plan Definitions. Title 10 provides definitions for use in Metro's administration of the UGMFP and is, therefore, unrelated to the compliance of this proposal with the UGMFP.

Title 11: Planning for New Urban Areas. Title 11 concerns planning for new urban areas. This proposal only affects land within the Urban Growth Boundary and the corporate limits of the City of Beaverton. Title 11 does not apply to the proposed text amendment.

Title 12: Protection of Residential Neighborhoods. Protection of existing residential neighborhoods is a key to success of the 2040 Growth Concept. The proposed text amendment affects only a single parcel previously zoned GC (General Commercial) and now zoned C-WS (Commercial – Washington Square), which does not abut any residential neighborhoods.. Designated Neighborhood Centers to serve existing residential neighborhoods do not exist within the subject area. The access to parks and schools would not be affected by this proposed text amendment. Therefore, this proposal does not change Beaverton's compliance with the mandates of Title 12.

Title 13: Nature in Neighborhoods. The City, as a member of the Tualatin Basin Coordinating Committee, complies with Title 13. The proposed text amendment relates to a single site, which is currently developed and in use as a Malibu Grand Prix. The site does not contain Regionally Significant Fish and Wildlife Habitat or Habitat Conservation Areas shown on Metro's Title 13 Inventory Maps, and the proposed text amendment does not affect the City's compliance with Title 13.

Title 14: Urban Growth Boundary. The text amendment affects only one property, zoned C-WS, which is located inside the Urban Growth Boundary.

4. The proposed text amendment is consistent with the City's Comprehensive Plan.

The relevant Goals and Policies of the City's Comprehensive Plan are addressed below.

Public Involvement Element

Goal 1 Citizen Involvement: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Response: The proposed text amendment does not alter any aspect of the City's citizen involvement program, and the text amendment application will be processed in accordance with the City's procedures, which include a public hearing before the Beaverton Planning Commission and opportunity for appeal to the City Council.

Land Use Element

3.5 Mixed Use Areas

3.5.1 Goal: Beaverton mixed use areas that develop in accordance with community vision and consistent with the 2040 Regional Growth Concept Map.

Response: This Goal and its policies address mixed use development, a compact urban form, and design that incorporates pedestrian safety and is "attractive and accessible to multiple transportation modes, including pedestrians, bicyclists, transit riders and motor vehicles." The proposed text amendment does not decrease the scope of uses allowed in the Washington Square Regional Center zones or alter the applicable development standards. Due to the design developed through Design Review for the CarMax facility, in which the Regional Center policies were addressed, the facility incorporates enhanced pedestrian facilities as well as "use of multiple level parking structures with ground floor storefront design" called for under the policies for this goal.

The proposed text amendment does not affect transit access; as discussed under the Transportation Element, there is no transit service on Cascade Avenue, and the nearest transit stops are located on Scholls Ferry Road (Tri-Met bus) and Hall Boulevard (bus and WES commuter rail).

3.6 Regional Center Development

3.6.1 Goal: Regional Centers that develop in accordance with community vision and consistent with the 2040 Regional Growth Concept Map.

Response: The proposed text amendment relates to a single property within the Washington Square Regional Center, and allows the approved CarMax facility to be developed in accordance with its existing conditional use and design review approvals and to subsequently operate the business and adapt to changes in customer needs without the restrictions of nonconforming use status. This is consistent with the treatment of the Canyon Road auto dealers when Regional Center zoning was adopted in that area of the City.

Transportation Element

6.2 Transportation Goals and Policies

6.2.4. Goal: An efficient transportation system that reduces the percentage of trips by single occupant vehicles, reduces the number and length of trips, limits congestion, and improves air quality.

Response: The proposed text amendment does not alter the transportation system; rather, it allows a previously approved use to continue without nonconforming use status as long as it is constructed in accordance with the terms of its existing approvals. The property affected by the text amendment has street access on Cascade Avenue. The property is bordered by Cascade Avenue and Highway 217 to the east and the WES commuter rail right-of-way to the west. Given the presence of Highway 217 and the rail right-of-way, there are no east-west street or pedestrian connections to Cascade Avenue between Hall Boulevard on the north and Scholls

Ferry Road on the south. There is a WES station (the Hall/Nimbus station) at Hall Boulevard, and Tri-Met bus service on Scholls Ferry Road and Hall Boulevard. There is no transit service on Cascade Avenue. Development of the property will have to comply with the approved Design Review File No. DR2009-0076, which must provide pedestrian improvements along the Cascade Avenue frontage, include a sidewalk in a landscaped strip.

The Transportation Planning Rule, OAR 660-012-0060(1), provides in part:

If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule.

The proposed text amendment does not meet the threshold of having a significant affect on an existing or planned transportation facility. OAR 660-012-0060(1) identifies what constitutes "significant affect":

A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

The proposed text amendment does not “change the functional classification of an existing or planned transportation facility” or “change standards implementing a functional classification system.” Therefore, it can have a “significant affect” only if it result in any of the effects listed in OAR 660-012-0060(1)(c)(A) through (C). Because the text amendment does not authorize development that otherwise could not occur (CarMax is already approved and is allowed to develop and operate – albeit as a nonconforming use -- if it “vests” or “enacts” those approvals in accordance with Section 50.90 of the Development Code), the text amendment would not result in types or levels of travel or access that are inconsistent with the functional classification of transportation facilities and it would not degrade of performance of transportation facilities.

Economy Element

9.2.2 Providing a Strong Partnership for Economic Development

9.2.2.2 Goal: To enable businesses to easily start or expand their enterprise.

Response: There are two policies under this Goal:

- a) To streamline the city processes required to start or expand a business.
- b) Ensure regulations and codes are consistent with and complementary to one another, and are easy to understand and implement.

The proposed text amendment supports this goal by providing an automobile sales business, approved through Design Review and Conditional Use approval under General Commercial zoning, with the ability to develop and operate under rules consistent with the treatment of Canyon Road auto dealers when their sites were rezoned with Regional Center zoning classifications.

5. The proposed text amendment is consistent with other provisions within the City's Development Code.

Response: Sections 20.20.20 and 20.20.25 of the Development Code recognize numerous situations in which a “one size fits all” approach does not provide the best outcome for the City, its residents and its businesses. The proposed text amendment follows an approach similar to that used for the Canyon Road auto dealers when the Regional Center zones in that area required vehicle sales and leasing uses to be in wholly enclosed buildings. In order to utilize the provisions of this text amendment, CarMax will have to develop in accordance with its existing approvals, including the deadlines for “vesting” or “enacting” those approvals consistent with Section 50.90 of the Development Code.

6. The proposed amendment is consistent with all applicable City ordinance requirements and regulations.

Response: In order to take advantage of the proposed amendment, CarMax would have to develop in accordance with its existing approvals and “vest” or “enact” those approvals by obtaining development permits and completing “substantial construction” (as defined in Chapter 90 of the Development Code) in accordance with Section 50.90 of the Development Code. The amendment is consistent with other applicable City ordinance requirements and regulations.

7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

Response: The only application requiring City approval this application for Text Amendment. Therefore, this requirement is met.

6. Facilities Review Criteria

Section 50.25(1)(B) of the Development Code requires that the written statement accompanying an application “address all the applicable technical criteria specified in Section 40.03 (Facilities Review Committee) of the Code.”

Section 40.03 requires that the Facilities Review Committee determine whether certain types of applications comply with technical criteria. Section 40.03(1) applies to Conditional Use, Design Review Two, Design Review Three, and applicable Land Division applications. This Text Amendment application is not within the scope of applications addressed in Section 40.03(1). The CarMax facility itself was reviewed and approved through Conditional Use (for a private use mechanical car wash) and Design Review Three. Therefore, the technical criteria were addressed at that time. The Text Amendment does not alter the approved development of the site.

Section 40.03(2) applies to “Public Transportation Facility Improvements or Modifications, including Street Vacations.” This Text Amendment request does not involve public transportation facilities, including street vacations.